IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

J U D G M E N T

D.B. CIVIL SPECIAL APPEAL (WRIT) NO.1102/2007.
In
S.B. CIVIL WRIT PETITION NO.7386/2003.

Mangi Lal
Vs.
Mst.Wahidan and ors.

Date of Order:- September 17, 2007.

PRESENT
HON'BLE THE CHIEF JUSTICE MR.J.M. PANCHAL
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. G.K. Garg and
Mr. Saransh Saini for the appellant.

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BY THE COURT:- (Per J.M. Panchal, CJ)

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The instant appeal is directed against the interim-order dated November 16, 2006 passed by the learned Single Judge in S.B. Civil Writ Petition No.7386/2003 by which while dismissing stay application and application for appointment of Receiver, the appellant is called upon to submit a solvent security for an amount of Rs.500/- per bigha every year by December 31 with the Tehsildar Kishanganj, District Baran and it is clarified that in case the appellant commits default in submitting solvent security, the respondents would be entitled to make a fresh application for appointment of Receiver.

The appellant claims that his father purchased the lands bearing Khasra Nos.115

admeasuring 16 bighas 16 biswas and Khasra No.116 admeasuring 2 bighas from recorded khatedar Amra Meena for a consideration of Rs.18,000/-. The respondents filed a suit before the S.D.O. Shahabad, District Baran under Sections 88, 89, 90 and 183 of the Rajasthan Tenancy Act, 1955 ('the Act' for short). The suit was dismissed on March 30, 1998. Thereupon, the respondents filed an appeal before the Revenue Appellate Authority Kota. That was allowed vide judgment dated September 2, 1999. Thereafter, the appellant preferred an appeal before the Board of Revenue, Ajmer. The said appeal was allowed vide judgment dated September 29, 2001. The respondents filed review petition which was rejected by the Board of Revenue Ajmer vide judgment dated April 4, 2002. Therefore, the respondents have invoked extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and filed S.B. Civil Writ Petition No.7386/2003. The petition is admitted and is pending for disposal. During the pendency of petition, the respondents filed an application for injunction as well as application for appointment of Receiver. Both those applications were rejected. However, while rejecting the applications, the learned Single Judge has called upon the appellant to submit solvent security for an amount of Rs.500/- per

bigha every year by 31st of December and clarified that in case the appellant commits default in submitting solvent security, the respondents would be entitled to make a fresh application for appointment of Receiver Vide order dated November 16, 2006 giving rise to the instant appeal.

This Court has heard the learned counsel for the appellant and considered the documents forming part of the petition.

The plea that the appellant had purchased property in question by a registered sale-deed and as the suit under Section 183 of the Act of 1955 is not maintainable, the condition impugned in the appeal could not have been imposed, has no substance. Prima-facie, it is evident that the disputed lands which were recorded in the name of Bhura were lateron recorded in the name of Amra Meena. As observed by the learned Single Judge in the impugned-order, Bhura is Mali by caste whereas Amra is Meena by caste and, therefore, transfer of the lands in favour of Amra Meena from whom the appellant claims to have purchased the land, is illegal. Further, the suit was also filed under the provisions of Sections 88, 89 and 90 of the Act. The contention of the appellant that application filed by the respondent for injunction as well as appointment of Receiver were rejected and, therefore, in view of

provisions of Section 212 of the Act, the condition impugned in the appeal could not have been imposed by the learned Single Judge, has no substance. The learned Single Judge while exercising powers under Article 226 of the Constitution of India has passed the impugned-order in order to do complete justice between the parties. The High Court has every power under Article 226 of the Constitution of India to direct a party to furnish solvent security when circumstances of the case so demand. By the impugned-order, the learned Single Judge has not directed the appellant to make payment of Rs.500/- to the respondents. On re-appreciation of the documents produced on the record of the petition, this Court finds that a just order has been passed by the learned Single Judge in the interest of justice which does not call for any interference of this Court in the instant appeal.

The instant appeal therefore which lacks merit deserves to be dismissed.

For the foregoing reasons, the appeal fails and is dismissed.

(MOHAMMAD RAFIQ), J. **(J.M. PANCHAL), CJ.**

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